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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,566	03/11/2004	Manish K. Deliwala	03292.101710.1	2565
66569	7590	11/25/2009	EXAMINER	
FITZPATRICK CELLA (AMEX) 1290 Avenue of the Americas NEW YORK, NY 10104-3800				OBEID, FAHD A
ART UNIT		PAPER NUMBER		
3627				
MAIL DATE		DELIVERY MODE		
11/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/708,566	DELIWALA ET AL.	
	Examiner	Art Unit	
	FAHD A. OBEID	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 November 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 and 6-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4 and 6-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Status of the Application

1. **Claims 1-4 and 6-20** are pending in this application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/06/2009 has been entered.

Preliminary Remarks

3. This is in reply to application filed on 11/06/2009.
4. Claim 1 remains cancelled.
5. Claims 1, 2, 4, 6, 10, and 13 have been amended.
6. Claims 1-4 and 6-20 are currently pending and have been examined.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. **Claims 1-4, and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacFarlane (US 6,125,354) in view of Peterson (US 7,020,628).**

10. Regarding Claim 1: MacFarlane discloses a method for facilitating the allocation of a billing incurred by an entity from a technology resource provider, said method comprising:

- receiving a business model (organization hierarchy) file corresponding to an internal structure of the entity, the business model file including at least one application profile associating at least the following access values (col 1 lns 27-42, col 3 lns 54-63, and col 4 lns 6-8):
 - a time access value (col 2 lns 58-62)
 - a geographic area access value (fig.1 and col 3 lns 21-25)

- and a user-level value with at least a portion of the internal structure within the entity (fig.5 and col 6 lns 57-64);
- receiving said billing, which includes data corresponding to usage of at least one technology resource by the entity and data corresponding to said access values (col 6 lns 17-20 and col 8 lns 49-58).
- allocating respective billing portions of said billing based at least in part on said access values, said billing portions corresponding to usage of said at least one technology resource by the portion of the internal structure within the entity (col 2 lns 58-67, col 6 lns 57-59, and col 9 lns 25-35).

MacFarlane does not explicitly disclose a time access value.

However, Peterson does disclose a time access value (fig.2, col 4 lns 5-10, and col 5 lns 18-24)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Peterson's teachings in MacFarlane's "system and method for generating an invoice charges to the elements of an organization" enabled, for the advantage of monitoring the costs of remote users accessing the host computer or computer network of the company, in addition to tracking the usage of computer time and various costs associated with that time (Peterson; col 1 lns 27-30).

11. Regarding Claim 3: MacFarlane discloses a method of claim 1, wherein receiving said business model file further includes receiving said business model file at a controller (figs 1-4,

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col 1 lns 27-42, and col 3 lns 54-63).

12. Regarding Claim 4: MacFarlane discloses a method of claim 1, further including automatically recognizing at least one user (figs. 2-4 and col 8 lns 26-34).

13. Regarding Claim 6: MacFarlane discloses a method of claim 4, wherein said allocating further includes allocating loyalty points to the at least one user (figs. 2-4 and col 8 lns 26-34).

14. Regarding Claim 7: MacFarlane discloses a method of claim 1, wherein said allocating further includes reducing said billing by a monetary value of loyalty points (figs. 2-4 and col 8 lns 26-34).

15. Regarding Claim 8: MacFarlane discloses a method of claim 1, wherein said allocating further includes at least one of transferring, pooling and gifting loyalty points (figs. 2-4 and col 8 lns 26-28).

16. Regarding Claim 9: MacFarlane discloses a method of claim 1, further including providing a descriptive billing statement including at least a portion of said business model file (fig.1, col 4 lns 45-48, and col 7 lns 10-14).

17. Regarding Claim 11: MacFarlane discloses a method of claim 1, further including adjusting said billing based upon at least one of a CPU-second used, a total CPU-seconds

expected to be used, a volume discount, a stepped-type of pricing, a peak/off-peak usage, a geographic location, a service provided, a performance expectation, a location, a service level scoring, a CPU cycle, a local power consumption cost, a physical site security, an increased site security, an additional operational procedure needed to support increased sensitive data, a level of fail over needed, a service level agreement, and an account data privacy requirement (figs 2-4, abstract, and claim 1).

18. Regarding Claim 12: MacFarlane discloses a method of claim 1, further comprising:
 19. determining said internal structure, including various groups and sub-groups within said entity (col 1 lns 27-35); determining a billing detail of said group within said entity (fig.1, col 4 lns 45-48, and col 7 lns 10-14); determining a value driver of said entity (claim 1); and determining an application profile of said entity (col 4 lns 6-8).
20. Regarding Claim 17: MacFarlane discloses a method of claim 13, further including performing data analysis of said computer usage using the at least one application performance driver (fig.1, col 5 lns 1-12, and claim 4).
21. Regarding Claim 18: MacFarlane discloses a method of claim 13, further including suggesting a cost efficient usage practice (col 1 lns 42-46 and col 1 lns 61-65).
22. Regarding Claim 19: MacFarlane discloses a method of claim 13, further including requesting a bid based upon said monitoring step (col 3 lns 31-40).

23. Regarding Claim 20: MacFarlane discloses a method of claim 1, wherein said business model file further includes at least one of an application profile, a value driver, a user level, a geographic area, a project, a zone, a third party provider, loyalty information and a rule (col 3 lns 31-40 and col 4 lns 1-8).

24. Regarding Claims 2, 10, and 13-16: MacFarlane does not explicitly disclose a computer usage includes computing time obtained from an outsourced provider, monitoring computer usage, and notifying at least one user of said computer usage.

However, Peterson does discloses a method of claim 1 wherein said technology resources includes at least one of computer usage, wherein said computer usage includes computing time obtained from an outsourced provider, telephony resource usage, manufacturing cycles and production runs (col 1 lns 17-18 and col 4 lns 7-10); Monitoring said computer usage (col 1 lns 46-50); notifying the at least one user of said computer usage (col 5 lns 10-15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Peterson's teachings in MacFarlane's "system and method for generating an invoice charges to the elements of an organization" enabled, for the advantage of monitoring the costs of remote users accessing the computer of the company (Peterson; col 1 lns 27-29).

Response to Arguments

25. Applicant's arguments have been fully considered but they are not persuasive. In particular the applicant argues that: a) MacFarlane and Peterson do not suggest or teach allocating billing based on (1) a time access value (2) a geographic area access value and (3) a user-level value.

In response to a) examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Firstly, as claimed the billings are allocated based on at least in part of the above access values. Secondly, MacFarlane teaches allocating billed charges to elements of the organization and to adjust the allocated charges on a charge by charge and element by element basis (col 2 lns 64-67). Allocating the billed charges to the appropriate elements, i.e. divisions, branches, departments, etc. (col 3 lns 21-26). A user code is used to indicate the element or hierarchical level of the organization to which the charges are to be allocated (fig.5 and col 6 lns 57-64).

Therefore, the combination of MacFarlane in view of Peterson still meet the scope of the limitation as currently claimed.

Conclusion

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/
Examiner, Art Unit 3627
November 21, 2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627